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Letter dated 1 December 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

In his letter dated 2 September 2005 addressed to the President of the Security Council (S/2005/572), the Chairman of the Al-Qaida and Taliban sanctions Committee transmitted the third report of the Analytical Support and Sanctions Monitoring Team and requested its issuance as a Security Council document. In the letter it was noted that the Committee was considering the recommendations contained in the report with a view to improving the established sanctions measures and their implementation.

Having completed its consideration of the recommendations, the Committee would like to bring to the attention of the Security Council its position on a number of the recommendations contained in the report. The Committee finds that many of the recommendations should be brought to the attention of Member States, as they can significantly improve their implementation of the sanctions measures. In this connection, the Committee would like to stress that the Monitoring Team is an independent body and that the Committee, while finding the recommendations a valuable source for consideration, has arrived at its own conclusions not necessarily shared by the Monitoring Team. The Committee wishes to use this opportunity to inform the Council of recommendations it is currently implementing.

The Committee expresses its appreciation to the Monitoring Team for its high-quality report and anticipates with interest the reports to be submitted by the Team in accordance with annex I to resolution 1617 (2005), the first in January 2006.

I. The consolidated list

The Committee continues to place great emphasis on the improvement of the quality of information on its consolidated list and requests all States to submit additional identifying information on individuals and entities already placed on it. The Committee also strongly urges States to submit new names of individuals or entities belonging to or associated with the Taliban or Al-Qaida. In this connection, the Committee points to the useful definition of the term "associated with" provided by the Security Council in its resolution 1617 (2005).

The Committee strongly supports the recommendation to render the list in both English transliteration and in the language of the original documents. The implementation of this recommendation will lead to greater accuracy and clarity of

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the list and thus to better implementation of sanctions. The Committee has already requested the Monitoring Team to work with relevant States in ensuring an accurate rendition of the names in their original language and hopes to update the list with that information before the end of December 2005.

The Committee has also agreed to replace the current numbering system, which changes each time an individual or entity is added, with a permanent reference number. The Committee believes that this will ease communication between Member States and the Committee. Due to certain technical issues, the implementation of this recommendation is, however, subject to the Committee's approval of a number of linguistic and technical corrections to the list submitted to it by the Monitoring Team.

II. Implementation of sanctions

In its drive to press for better implementation of the sanctions regime, the Committee also supports the Monitoring Team's recommendation that Member States be reminded of the meaning of a United Nations listing. A criminal conviction or indictment is not a prerequisite for inclusion on the consolidated list, and States need not wait until national administrative, civil, or criminal proceedings can be brought or concluded against an individual or entity before proposing names for the list. Delays in implementation of sanctions only serve to allow Al-Qaida or Taliban supporters an opportunity to circumvent sanctions.

As recommended by the Team, the Committee encourages States that have not done so to enact appropriate national legislation or other measures to allow the freezing of assets of parties on the list, without the need for criminal offences or criminal standards of evidence to be demonstrated. As noted by the Chairman in the Council on 20 July 2005, it has emerged from the reports of some Member States that there is a need to present sufficient evidence to judicial authorities as a condition for the freezing of assets. The Committee wishes to clarify that such a procedure is not in conformity with Member States' obligations under Chapter VII of the Charter of the United Nations. For this reason, the Committee urges States to ensure that assets can be frozen as soon as the Committee adds the name of an individual or an entity to its list.

III. Assets freeze

The Monitoring Team has provided a number of useful recommendations regarding the implementation of the assets freeze. The Committee notes that several recommendations are of a broad nature, which will be of use not only in the implementation of sanctions against Al-Qaida and the Taliban, but also in the general efforts to counter terrorism. The Committee will therefore forward the recommendations to the Counter-Terrorism Committee established pursuant to resolution 1373 (2001).

As recommended by the Monitoring Team, the Committee urges States to publicize the list and its purpose as widely as possible, such as in Government journals and via the Internet. The Committee believes that such actions will lower the risk that third parties, including non-bank financial institutions and non-financial businesses and professionals, act unwittingly in contravention of the assets freeze requirements.

IV. Arms embargo

As with the assets freeze, the Committee notes that the Team has provided a number of useful recommendations concerning the implementation and further improvement of the arms embargo and that some of these may be better dealt with by the Counter-Terrorism Committee or the Committee established pursuant to resolution 1540 (2004). The Committee has requested the Monitoring Team to continue to explore how the recommendations, including those relating to the threat of the use of chemical, biological, radiological or nuclear materials, can be made more specific to address the threat posed by Al-Qaida and the Taliban. The Committee looks forward to recommendations in this regard in the Team's forthcoming reports.

V. Travel ban

The Committee reminds States that they should submit updated information to it when they locate listed individuals within their territory, in order for this information to be shared and added to the list if appropriate. In this connection, the Committee again reiterates the importance of the list being as accurate as possible.

The Committee also supports the recommendation that States should improve or adopt measures to deal with evasion of the travel ban attempted through the issuance of new passports. Such measures could include a requirement that individuals applying for a new passport provide details of any previous identities and travel documents under those names, and mandatory monitoring (with possible referral to law enforcement) of cases of repeat passport requests by individuals.

VI. The Internet

The Committee notes with interest the Team's recommendations regarding the Internet and has requested the Team to continue its work in this regard. At the same time, the Committee acknowledges that a number of constraints could affect the adoption of new regulatory measures in this regard.

VII. Conclusion

The work of the Monitoring Team continues to provide the Committee with useful recommendations on the further improvement of the sanctions measures. The Team is also assisting the Committee with its analysis of Member State implementation of the measures already in place. The Committee strongly urges States to familiarize themselves with the reports of the Team, as they contain a breadth and depth of information relevant to their implementation of the sanctions against Al-Qaida and the Taliban.

This is the first written report of the Committee to the Security Council on the recommendations contained in reports of its Monitoring Team. The Committee expects that this report will prove to be useful in States' implementation efforts.

I would appreciate it if the present letter could be circulated to members of the Security Council and issued as a document of the Council.

(*Signed*) César **Mayoral**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities